

### **REMARKS/ARGUMENTS**

Claims 1-34 are pending in the application. Claims 5-16 and 25-34 stand rejected. Applicants thank the Examiner for the thorough review of the pending claims and indication that claims 1-4 and 17-24 are allowable over the art of record. To expedite review of the allowable subject matter, Applicants have cancelled claims 5-16 and 25-34. No new matter has been introduced into the application. As explained in more detail below, Applicants submit that all claims are in condition for allowance and respectfully request such action.

#### **Claim Objections**

Claims 8, 9, and 21-24 are objected to because of certain informalities. Specifically, claim 21 (and presumably claims 22-24) are objected because the Examiner states that every recitation of “promotional offer” following the initial recitation should be preceded with “the.” Applicants respectfully submit that each subsequent recitation of “promotional offer” the claims 21-24 is preceded by the usage of “the” and thus provides proper antecedent basis. Such amendments were previously submitted and made of record in Applicants Amendment and Response dated February 27, 2007 (see page 6). Applicants therefore, respectfully submit that claims 21-24 are in condition for allowance and respectfully request withdrawal of the rejection.

Claims 8 and 9 are objected to, however, as explained in more detail below, claims 8 – 9 have been cancelled. Therefore, Applicants respectfully request withdrawal of the objection and allowance of the pending claims.

#### **Claim Rejections – 35 USC § 102**

Claims 5, 6, 7, 8, 9, 15, 16, 25-28 are rejected under 35 U.S.C. § 102(b) as being anticipated by Buss et al. (US Patent 5,539,395).

Applicants respectfully disagree with the Examiner’s interpretation of the cited reference, however, to expedite issuance of claims indicated to be allowable over the art of record, Applicants have cancelled claims 5, 6, 7, 8, 9, 15, 16, 25-28. Applicants reserve the right to claim the subject matter of the rejected claims in one or more continuation applications.

In view of the foregoing, Applicants respectfully request withdrawal of the rejection and issuance of the claims indicated to be allowable over the art of record.

Claims 5-16, 25, 26, 28-34 are rejected under 35 U.S.C. § 102(e) as being anticipated by Bandera et al. (US Patent 6,332,127).

Applicants respectfully disagree with the Examiner's interpretation of the cited reference, however, to expedite issuance of claims indicated to be allowable over the art of record, Applicants have cancelled claims 5-16, 25, 26, 28-34. Applicants reserve the right to claim the subject matter of the rejected claims in one or more continuation applications.

In view of the foregoing, Applicants respectfully request withdrawal of the rejection and issuance of the claims indicated to be allowable over the art of record.

#### **Claim Rejections – 35 USC § 103**

Claims 10, 12-14, 29, 31-33 and 34 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Buss et al. (US Patent 5,539,395) in view of Bandera (US Patent 6,332,127).

Applicants respectfully disagree with the Examiner's interpretation of the cited references, however, to expedite issuance of claims indicated to be allowable over the art of record, Applicants have cancelled claims 10, 12-14, 29, 31-33 and 34. Applicants reserve the right to claim the subject matter of the rejected claims in one or more continuation applications.

In view of the foregoing, Applicants respectfully request withdrawal of the rejection and issuance of the claims indicated to be allowable over the art of record.

#### **Clarifying Claim Amendments**

Through this Amendment and Response, Applicants have amended claims 2, 18, 21, 22 and 23 to more clearly recite the subject matter of the claimed embodiments. As explained in more detail below, Applicants respectfully submit that the claim amendments provide more clarity in the scope of the recited claims, are fully supported by the Specification, and do not introduce any new subject matter.

Specifically, Claims 2, 18 and 22 have been amended to more clearly recite the claimed Markush grouping of the criterion provided in the respective claims. Claim 21 has been amended to remove any “means for” language. Support for each element is provided below:

~~means for~~ an apparatus configured to selecting at least two of a plurality of the mobile terminals using at least one criterion and the location of said mobile terminals relative to a specific location of interest;

Support in the Specification may be located in at least Figure. 3, Step 96 and page 17. l. 5 – p. 18 l. 14.

a database configured to ~~means for~~ maintaining information of the at least two of a plurality of mobile terminal users matching the at least one criterion;

Support in the Specification may be located in at least Figure 1, databases 35 and 36, and Spec. p 11.

~~means for~~ an advertisement server configured to createing an advertising message to be sent distributed to the selected at least two of a plurality of mobile terminals, the advertising message including a promotional offer dynamically generated based on a number of mobile terminals selected using the at least one criterion to receive the advertising message;

Support in the Specification may be located in at least Fig. 1, advertisement server 40; page 13, l. 3 – 20; page 18, l. 15 – page 19. l. 11; see also page 12, discusses apparatuses that may be used in conjunction with, for example, the user profiles database 36 or memory in the mobile terminal 20, to generate advertising messages. Distribution may occur through, for example, LANs 61-63 or access point 60 of Fig. 1.

~~means for~~ a dynamic pricing application configured to defineing a monetary value of the advertising message including the promotional offer based on the number of the at least two of mobile terminal users matching the at least one criterion; and

Support in the Specification may be located in at least page 19, l. 12 – page 20. l. 11 and Fig. 3b and Spec. pages 18 – 21.

~~means for distributing the advertising message including the promotional offer to a mobile terminal of the at least two of a plurality of mobile terminal users matching the at least one criterion.~~

As indicated above, the third element of the claim has been amended to more clearly indicate an advertisement server [is] configured to create an advertising message to be distributed to the selected at least two of a plurality of mobile terminals.

Similarly, Claim 21 has also been amended to remove any “means for” limitations. Specifically, support for “an apparatus configured to obtain user information from the mobile terminal users” and the “apparatus configured to select the at least one of the plurality of mobile terminals...is configured to specify a type of user to whom the advertisement message should be provided” may be found in at least pages 12, l. 3 – 13, l. 20.

Applicants, therefore, respectfully submit that the clarifying amendments to claims 2, 18, and 21 – 23 more clearly define the scope of the claims without adding new subject matter, and have clear support in the Specification. Applicants, therefore, respectfully request allowance of the claims.

**CONCLUSION**

All rejections having been addressed, applicant respectfully submits that the instant application is in condition for allowance, and respectfully solicits prompt notification of the same. Should the Examiner have any questions, the Examiner is invited to contact the undersigned at the number set forth below.

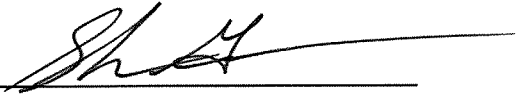
Applicant believes there is no fee due in association with the filing of this response, however, should there be any fees due the Commissioner is hereby authorized to charge any such fees or credit any overpayment of fees to Deposit Account No. 19-0733.

Respectfully submitted,

**BANNER & WITCOFF, LTD.**

Dated: September 5, 2007

By: \_\_\_\_\_

  
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